HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No.6213 of 2005

Date of decision 05.12.2006

Chhatar Singh and another

...Petitioners

Versus

State of Haryana and others

...Respondents

Coram: Hon'ble Mr.Justice Hemant Gupta

Present: Mr.V.K.Jain, Sr. Advocate with
Ms.Divya Sharma, Advocate
for the petitioner.
Mr.Y.P.Malik, Advocate
for respondent No.4.
Mr.Madan Gupta, Sr.DAG, Haryana
for Respondent Nos.1 to 3
Mr.A.K.Singal, Advocate
for respondent Nos.5 to 7.

JUDGMENT

HEMANT GUPTA, J.(Oral)

The challenge in the present revision petition is to the order passed by the learned trial court dated 4.10.2005 whereby the Gram Panchayat and three other inhabitants of the village were ordered to be impleaded as the defendants in the suit for permanent injunction filed by the plaintiff-petitioner.

The plaintiff-petitioner has filed the present suit for permanent injunction primarily on the assertion that the plaintiff is owner in possession of plot measuring 511 Sq.yards situated within the abadi of village Mandora, District Sonepat. The plaintiff averred that defendant No.3

i.e. Block Development and Panchayat Officer has issued a letter to the Tehsildar on 9.9.2002 asking for demarcation of 'Katcha Bans' of the road leading from Kanwali to Narela. The defendants were to reconstruct this road as the same was badly damaged in the last few months, but subsequently, the defendants alleged that the plaintiff has encroached upon the land of the road and asked for fresh demarcation. On the basis of report dated 16.1.2003, it is being averred that 223 Sq.Yards land has been illegally encroached upon by the plaintiffs and thus, the plaintiff sought the injunction restraining the defendants from demolition of residential house of the plaintiff over the plot in dispute.

The Panchayat and other inhabitants have sought impleadment on the ground that Panchayat has proposed to construct of a Nala by the side of PWD road, the portion of which has been encroached by the plaintiff by constructing houses just a year or two back.

Admittedly the road which is subject matter of the dispute falls within the area of Gram Panchayat village Mandora. The roads, streets and passages within the village vests with Panchayat

being Shamlat land and thus the Panchayat is a necessary party.

Though the plaintiff has, admittedly, right to choose the defendants in suit for permanent injunction, yet the plaintiff cannot be permitted to omit necessary and proper parties. In view of the averments made in the plaint, the dispute pertains to the fact as to whether there is any encroachment on the road. The said road vests with Panchayat in view of Section 2(g) of the Panchayat Village Common Land (Regulation) Act, 1961. Therefore, the plaintiff cannot be permitted to omit necessary parties in the suit for permanent injunction.

Consequently, I do not find any illegality or irregularity in the findings recorded by the learned trial court which may warrant interference in revisional jurisdiction of this court.

The petiton is accordingly dismissed.

(**HEMANT GUPTA**)
JUDGE

05.12.2006
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